

**DERGOSITS & NOAH LLP**

ATTORNEYS AT LAW

FOUR EMBARCADERO CENTER, SUITE 1450  
SAN FRANCISCO, CALIFORNIA 94111

TELEPHONE: (415) 705-6377

FACSIMILE: (415) 705-6383

<http://www.dergnoah.com>**FACSIMILE TRANSMISSION COVER SHEET**

**DATE:** August 19, 2002 **TIME:** 5:36 PM

**PAGES:** 51 (including cover) **REF. NO.:** 106.48

**TO:** Examiner Mark Fadok  
Art Unit 2165

**FACSIMILE NO.:** 703-746-7239 **TELEPHONE NO.:**

**FROM:** Andrew B. Schwaab

**RE:** In re Application of: Joshua D. KAPLAN  
Application No. 09/412,404  
Filed: October 5, 1999  
For: **NETWORK APPARATUS AND  
METHOD FOR PREVIEW OF  
MUSIC PRODUCTS AND  
COMPILATION OF MARKET DATA**

**COMMENTS:** The Information Disclosure Statement sent via regular mail on August 9 2002 is attached herewith in order to expedite examination.

Hard Copy To Follow: ☐ Yes ☒ No**CONFIDENTIALITY NOTE**

THE INFORMATION CONTAINED IN THIS FACSIMILE TRANSMISSION IS CONFIDENTIAL AND MAY ALSO CONTAIN PRIVILEGED ATTORNEY-CLIENT INFORMATION OR WORK PRODUCT. THE INFORMATION IS INTENDED FOR THE INDIVIDUAL OR ENTITY TO WHOM IT IS ADDRESSED. IF YOU ARE NOT THE INTENDED RECIPIENT, OR THE PERSON RESPONSIBLE FOR DELIVERING IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY USE, DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE, AND RETURN THE ORIGINAL TRANSMISSION TO US VIA THE U.S. POSTAL SERVICE. THANK YOU.

Serial No. 09/412,409 File No. 106,48

By ABS/sdh

In the Matter of the Application of Kaplan

Date Mailed 8-9-02

Due Date

The following has been received in the U.S. Patent Office on the date stamped hereon.

- |  |  |
|--|--|
| <input type="checkbox"/> Oath / Declaration                            | <input type="checkbox"/> ITU Trademark Application         |
| <input type="checkbox"/> Power of Attorney                             | <input type="checkbox"/> Issue Fee Transmittal Form        |
| <input checked="" type="checkbox"/> Check \$180 <sup>00</sup> (# 8389) | <input type="checkbox"/> Trademark Appln. & Specimens      |
| <input type="checkbox"/> Deposit Account Order Form                    | <input type="checkbox"/> Sec. 8 & 15 Affidavits            |
| <input type="checkbox"/> Drawings _____ sheets                         | <input type="checkbox"/> Trademark Renewal Appln.          |
| <input type="checkbox"/> Informal                                      | <input type="checkbox"/> Utility (regular) Appln.          |
| <input type="checkbox"/> Formal  | <input type="checkbox"/> Design Patent Appln.              |
| <input type="checkbox"/> Assignment                                    | <input type="checkbox"/> Plant Appln.                      |
| <input type="checkbox"/> Letter (transmittal)                          | <input type="checkbox"/> Terminal Disclaimer               |
| <input checked="" type="checkbox"/> Information Disclosure             | <input type="checkbox"/> PCT Appln.                        |
| <input type="checkbox"/> (Prior Art) Statement with 2 references       | <input type="checkbox"/> Small Entity Declaration          |
| <input type="checkbox"/> Notice of Appeal                              | <input checked="" type="checkbox"/> Certificate of Mailing |
| <input type="checkbox"/> Extension of Time Request                     | <input type="checkbox"/> Express Mail Certificate          |
| <input type="checkbox"/> Amendment / Response                          | <input type="checkbox"/> Other _____                       |
| <input type="checkbox"/> Affidavit                                     |  |
| <input type="checkbox"/> Petition                                      |  |

BEST AVAILABLE COPY

Sent By: Dergosits & Noah LLP;

415 705 6383;

Aug-19-02 5:41PM;

Page 3

**DERGOSITS & NOAH LLP**  
FOUR EMBARCADERO CENTER, SUITE 1450  
SAN FRANCISCO, CA 94111  
(415) 705-6377

WELLS FARGO BANK, N.A.  
SAN FRANCISCO, CA  
91-119/1221

8389

August 9, 2002

PAY TO THE  
ORDER OF Commissioner for Patents

\$ 180.00

\*\*\* One Hundred Eighty Dollars and 00/100

DOLLARS

Box IDS  
Commissioner for Patents  
Washington, D.C. 20231

MEMO

⑈008389⑈ ⑆122101191⑆0515 222859⑈

DERGOSITS & NOAH LLP

CHECK DATE

August 9, 2002

PAYEE

Commissioner for Patents

INVOICE NO.

CHECK AMOUNT

\$180.00

8389

DESCRIPTION

Information Disclosure Statement

5106.48 \$180.00

Official

FAX RECEIVED

AUG 20 2002

GROUP 3600

DERGOSITS & NOAH LLP

8389

ENTERED

AUG 19 2002

TIME SLIPS

41393

PATENT  
Attorney Docket No.: 106.48

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of )

Joshua D. Kaplan )

Serial No.: 09/412,404 )

Filed: October 5, 1999 )

For: **NETWORK APPARATUS AND  
METHOD FOR PREVIEW OF  
MUSIC PRODUCTS AND  
COMPILATION OF MARKET  
DATA**

Examiner: Fadok, M.

Art Unit: 2165

**THIRD SUPPLEMENTAL  
INFORMATION DISCLOSURE  
STATEMENT**

A Continuation of: )

Serial No. 08/741,915 )

Filed: October 31, 1996 )

## CERTIFICATE OF MAILING

I hereby certify that the Second Supplemental Information Disclosure Statement, Form PTO-1449, 10 references and check in the amount of \$180.00 are hereby being deposited first class mail, postage paid, with the United States Postal Service on August 9, 2002 and is addressed to Box IDS, Commissioner for Patents, Washington, D.C. 20231

By: 

Sandra D. Hunter

Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

Applicant submits herewith patents, publications or other information (attached hereto and listed on the attached Form PTO-1449) of which he is aware, which he believes may be material to the examination of this application and in respect of which there may be a duty to disclose in accordance with 37 C.F.R. §1.56.

This Information Disclosure Statement is filed before the mailing date of any of a final action under § 1.113, a notice of allowance under §1.311, or an action that otherwise closes prosecution in the application, and is accompanied by the fee of \$180.00, as set forth in §1.17(p).

The information submitted herewith includes information related to the pending litigation brought by Intouch against several defendants (Civil Action No. C 00 1156 DLJ) in the United States District Court for the Northern District of California. Applicant is of

PATENT  
Attorney Docket No.: 106.48

the belief that the disclosed information does not raise the identified concerns with respect to the pending claims, as recently amended.

A list of the patent(s) or publication(s) is set forth on the attached Form PTO-1449 (Modified). A copy of each of the items listed on form PTO-1449 is supplied herewith.

A concise explanation of relevance of the items listed on PTO-1449 is not given. The Examiner is respectfully reminded that a "concise explanation of the relevance" of the submitted prior art "may be nothing more than identification of the particular figure or paragraph of the patent or publication which has some relation to the claimed invention," MPEP § 609.

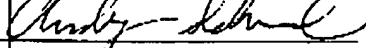
While the information and references disclosed in this Information Disclosure Statement may be "material" pursuant to 37 C.F.R. § 1.56, it is not intended to constitute an admission that any patent, publication or other information referred to therein is "prior art" for this invention unless specifically designated as such.

In accordance with 37 C.F.R. § 1.97(b), the filing of this Information Disclosure Statement shall not be construed to mean that a search has been made or that no other material information as defined in 37 C.F.R. § 1.56(a) exists. It is submitted that the Information Disclosure Statement is in compliance with 37 C.F.R. § 1.98 and MPEP § 609 and the Examiner is respectfully requested to consider the listed references.

The Commissioner is hereby authorized to charge any fees necessary in connection with this matter to Deposit Account No. 04-08222.

Respectfully submitted,  
DERGOSITS & NOAH LLP

Dated: August 9, 2002

By:   
Andrew B. Schwaab  
Reg. No. 38,611

DERGOSITS & NOAH LLP  
Four Embarcadero Center, Suite 1450  
San Francisco, California 94111  
(415) 705-6377

Attorney Docket No. 106.48